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ABSTRACT

This position paper asserts that sexual harassment in educational settings constitutes a serious problem and is on the increase, if the number of court cases involving alleged incidents of harassment in education is any indicator. Members of the academic community appear reluctant to confront incidents of sexual harassment and develop proactive policies to eliminate sexual harassment from the schools. A historical perspective of the development of this complex social problem is outlined. In earlier times women were regarded as possessions, with little social freedom. The adoption of Title VII of the Civil Rights Act of 1964 granted equal employment rights to women. Title IX of the 1972 Education Amendments threatened educational institutions with the possible loss of federal funding if they did not take steps to prevent discrimination; sexual harassment being defined as a form of discrimination. The 1980 Equal Opportunity Commission guidelines reflect the Title IX definition of sexual harassment. Research on the topic shows that sexual harassment is a continuing and increasing problem in secondary and postsecondary institutions, among women primarily, but also among males. Landmark legal cases involving the issue of sexual harassment are reviewed, with suggestions on models and procedures for establishing written policies for educational institutions. Prevention program models also are discussed. (EH)

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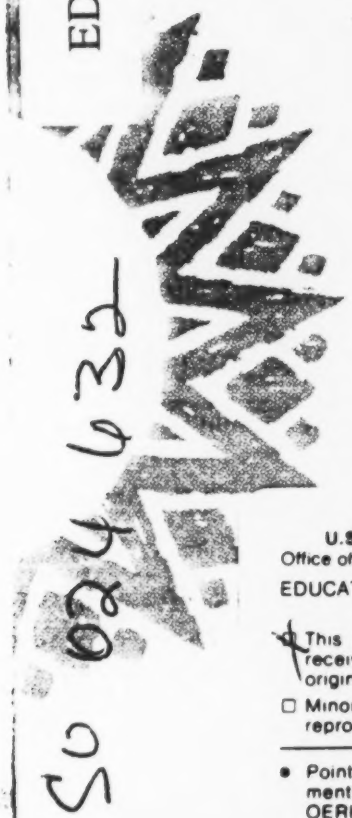

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Establishing School Policies on Sexual Harassment

Dan H. Wishnietsky

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Establishing School Policies on Sexual Harassment

by
Dan H. Wishnietsky

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Introduction

Sexual harassment in educational settings is a serious problem. Although the number of reported incidents varies according to how sexual harassment is defined, both verbal harassment and other crimes of a sexual nature, such as sexual assault, seem to be increasing on school and college campuses. This increase is evident in the number of court cases involving alleged incidents of harassment in education. And the increase in incidents also is a frequent subject of professional articles in education journals and a significant number of newspaper and magazine articles.

A concern consistently expressed in reports on sexual harassment is that the educational environment is sexually hostile for many individuals, but especially for females. One repeatedly reported finding is that approximately 25% of female college students report having been sexually harassed by male faculty (Malovich and Stake 1990).

In addition to faculty-student sexual harassment, research has found student-student, faculty-faculty, and student-faculty sexual harassment in secondary and postsecondary institutions. Harassing behaviors included suggestive looks, sexual comments, unwanted touching, sexual assault, and rape. Although most victims were female, male students also reported incidents of sexual harassment. This was particularly true for homosexual males and men enrolled in women's studies classes.

In schools and colleges, where mutual respect is a fundamental condition for a sense of "community," one would expect to find policies that forcefully confront sexual harassment. However, most education institutions fall short of this goal. Some institutions find it difficult to develop effective policies because of a lack of consensus on the definition of sexual harassment, the variability of research findings on the extent of the problem, and the overall social complexity of the issue.

The purpose of this fastback is to provide information that will help members of the academic community overcome these difficulties and discover ways to eliminate sexual harassment from their schools.

Historical Perspective

Sexual harassment is a complex social problem. Harassment is a behavior by which the harassing individual asserts power over another person. Often, harassment involves a man attempting to manipulate or to control a woman.

To place sexual harassment in context, it is important to understand that women's behaviors nearly always have been more restricted than men's behaviors. The historical distinction between a "good" woman and a "bad" woman was based on a social code of male domination. Until recently, a woman without a man to "protect" her was considered a legitimate target of male sexual desires.

Throughout most of Western history, women have not been regarded as autonomous beings, but rather as male possessions. For example, the rape of a woman throughout much of history was not considered to be a crime against the woman; it was a crime against the property of a husband, a father, a brother, or a son. If a woman went alone in public and was assaulted, the prevailing attitude was that she was asking for trouble and was responsible for the attack. Thus many women suffered not only the physical trauma of being raped, but also had to endure the public belief that the incident was her own fault.

Many nineteenth century scientists, such as Edward H. Clarke, believed that women were physically and mentally inferior to males. Clarke (1874) maintained that the development of the sex organs and

the development of the brain were at opposite poles of the nervous system. Since the female reproductive system was more complex than that of the male, it required more nervous system energy to develop. This growth took place at the expense of the brain, with the result that the male was more intelligent than the female. Clarke warned that if a female were to educate herself and develop her intellect, the strain on her body would cause her to have a nervous breakdown or to become sterile.

Such views persisted in the United States into this century and helped to produce a culture in which the sexual harassment of women was an accepted practice.

In the 1960s, a major change occurred in the political and legal perspective regarding sexual harassment with the adoption of Title VII of the Civil Rights Act of 1964, which prohibited employers from discriminating against any individual's terms, conditions, or privileges of employment on the basis of sex. Victims of discrimination were entitled to back pay, lost benefits, damages, and job reinstatement. The principles and guidelines of Title VII became applicable to education with the adoption of Title IX of the 1972 Education Amendments. Education institutions that did not take steps to prevent discrimination – sexual harassment being a form of discrimination – faced the possible loss of federal funding.

In 1975 the term *sexual harassment* became a new catch phrase. Publications about the topic rapidly increased as the result of congressional hearings, increased litigation, and the adoption in 1980 of the Equal Employment Opportunity Commission guidelines on harassment. The increased number of articles influenced the editors of the *Education Index* to include "sexual harassment" as a major classification in 1980. (Before that year, articles concerning sexual harassment were listed under "sex discrimination.")

Today, most educators and researchers base their definition of sexual harassment on the 1980 Equal Employment Opportunity Commission guidelines that reflect Title IX of the 1972 Education Amendments:

> Harassment on the basis of sex is a violation of section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
>
> Sexual harassment consists of verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of aid, benefits, services or treatment protected under Title IX. (*Federal Register* 1980)

This definition gives educators considerable freedom in explicitly defining sexual harassment. The text of Title VII states that when determining whether conduct constitutes sexual harassment, the Equal Employment Opportunity Commission will look at the conduct in context on a case-by-case basis.

Sexual Harassment in the School

Research indicates that sexual harassment is a continuing and increasing problem in secondary and postsecondary institutions. In 1982 more than 900 women and men students at the University of Rhode Island responded to a questionnaire regarding their experiences with sexual harassment on campus. Forty percent of the female respondents and 17% of the male respondents reported being the victims of student-student and faculty-student sexual harassment. Both sexes indicated that the harassing individuals usually were men (Lott et al. 1982).

Beyond the physical and mental trauma brought on by sexual harassment, such incidents also have a negative impact on the victim's education. A 1983 article in the *Chronicle of Higher Education* reported that at Harvard University 15% of the graduate students and 12% of the undergraduate students who had been sexually harassed by their professors changed their major or program because of the harassment (McCain 1983). Also in 1983, an article published in the *Journal of College Student Personnel* reported that 13% of the women surveyed stated that they avoided taking a class or working with a professor because of the risk of subjecting themselves to sexual advances (Adams et al. 1983).

Authors of a 1985 study presented at the American Psychological Association in Los Angeles interviewed 246 women who were enrolled in a graduate psychology program. Of these women, 15.9%

reported being directly assaulted, 21% refrained from enrolling in a course to avoid sexual harassment, and 2.6% dropped a course because of harassment (Bailey and Richards 1985).

A 1990 study, published in *Psychology of Women Quarterly*, found that more than 38% of female undergraduate students enrolled in introductory psychology classes at a mid-size Midwestern university had experienced sexual harassment (Malovich and Stake 1990). Approximately 89% of these students were freshmen or sophomores. Another 1990 study, published in *Sex Roles*, studied the sexual harassment of faculty by colleagues and students. Faculty members reported "moderate levels of harassment." Interestingly, female faculty were more likely to report harassment by colleagues, while male faculty were more likely to report harassment by students (McKinney 1990).

Sexual harassment of female students also has been reported in secondary schools. *Education Week* reported that in a 1985 Minnesota study of junior and senior high school students enrolled in a white, middle-class, secondary vocational center, between 33% and 60% of the females had experienced some form of sexual harassment (Stein 1991). A 1991 study of recent North Carolina high school graduates, published in the *Journal of Educational Research*, supported the Minnesota study results. Among the North Carolina females who responded, approximately 50% stated that a high school instructor had sexually harassed them (Wishnietsky 1991).

Although most victims of sexual harassment are women, the number of males alleging sexual harassment also is increasing. In the above study of recent North Carolina high school graduates, approximately 11% of the males who responded stated that they had been sexually harassed. A 1989 study published by Florida State University relates three court cases concerning men who were subjected to sexual harassment (Hazzard 1989). This study predicted that as more women are promoted to supervisory and management positions, the sexual harassment of men will increase dramatically.

A Summary of Judicial Cases

Based on Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, sexual harassment is a form of sex discrimination and is prohibited under federal law. The federal agency charged with enforcing Title IX is the United States Department of Education Office of Civil Rights (OCR). If any local education agency or postsecondary institution that receives federal assistance does not fully comply with Title IX, the Office of Civil Rights may recommend that the school's federal funding be terminated.

One of the first legal cases involving sexual harassment in education occurred in 1976 when several female students filed suit against Yale University. The students claimed that the university had the responsibility of preventing sexual harassment and mediating any disputes about harassment. Although the court decided in favor of Yale University, the case established a legal precedent for hearing sexual harassment grievances under Title IX of the 1972 Education Amendments (*Alexander* v. *Yale University*, 631 F.2d 178, 2d Cir. 1980).

In 1977 the Supreme Court wrote in *Ingraham* v. *Wright* (430 U.S. 651, 654) that school administrators have "the duty of ensuring that the school environment is a safe one for students." Ten years later, using *Ingraham* as precedent, the federal court serving the Western District of Pennsylvania declared in *Stoneking* v. *Bradford Area School*

District (667 F. Supp. 1088, W.D. Pa. 1987) that a safe environment was free of sexual harassment. The case involved a male high school teacher who had sexual relationships with several female students. Testimony indicated that several administrators knew of the teacher's behavior and did not intervene.

Two cases that established the strength of Title VII in protecting employees from sexual harassment are *Kyriazi* v. *Western Electric* (476 F. Supp. 335, D. N.J. 1979) and *Meritor Savings Bank* v. *Vinson* (106 S.Ct. 2399, 1986). In *Kyriazi*, a female engineer sued Western Electric for ignoring her complaints of sexual harassment from three co-workers and two superiors. The court ruled that Western Electric was liable for the harassment and had to pay for lost pay and benefits.

In *Meritor Savings Bank* the Supreme Court held that unwelcome sexual advances that create a hostile or offensive working environment violate Title VII, even if the victim did not suffer economic or tangible injury. Since Title VII is relevant to sexual harassment on campus because of Title IX, these cases also apply to school employees, including student workers.

In October 1991 the Anita Hill-Clarence Thomas inquiry established sexual harassment as a major, nationwide issue as the country watched, read about, and discussed the confirmation hearings of Supreme Court nominee Clarence Thomas. During the confirmation process, Anita Hill, a law professor and Thomas' former aide, testified that Thomas had sexually harassed her in the early 1980s. Thomas emphatically denied the charge, and the Senate confirmed his appointment to the Supreme Court. The fervor unleashed by these hearings persuaded many educators to believe that relationships between men and women have permanently changed. Ellen Futter, president of Barnard College, said that the emotions unleashed by the Anita Hill-Clarence Thomas hearings will not be quieted and will lead to "levels of understanding between men and women not previously achieved or imagined" (Lewis 1991).

Franklin v. *Gwinnett County Public Schools*

The principles of Title IX were designed to prevent federal funds from being allocated to institutions that discriminated on the basis of sex. This changed when the United States Court of Appeals for the Seventh Circuit ruled in *Cannon* v. *University of Chicago* (710 F.2d 351, 1983) that a student may sue an education institution for discrimination. But until 1992 it was not clear whether a student who prevailed in a sexual harassment case against an education institution could collect monetary damages.

On 26 February 1992, twenty years after its effective date, the Supreme Court confirmed the strength of Title IX when the justices unanimously ruled in *Franklin* v. *Gwinnett County Public Schools* (112 S.Ct. 1028) that victims of sex discrimination in schools and colleges may collect damage payments. Before *Franklin*, the common remedy under the law was a court order to stop the harassment. That recourse is no longer a sufficient remedy for schools to take. According to the Supreme Court, education institutions can be ordered to pay victims compensatory damages.

The *Franklin* case evolved in this way. From September 1985 to August 1989, Christine Franklin was a student at North Gwinnett High School in Gwinnett County, Georgia. North Gwinnett High School is operated by the Gwinnett County School District, which receives federal funds. Franklin alleged that since the fall of 1986 she had been subjected to sexual harassment from Andrew Hill, a teacher and coach at the high school. Franklin claimed that Hill would engage her in sexually oriented conversation that included questions regarding her sexual experiences and whether she would have sexual relations with an older man.

Franklin declared that Hill became increasingly aggressive with his sexual harassment. He telephoned her at home and asked her to meet him socially; forcibly kissed her on the mouth in the school parking lot; and on three occasions during her junior year, raped her while they were on school property. Hill would interrupt a class, request

that the teacher excuse Franklin, take her to a private office, and subject her to forced intercourse. Her allegation also claimed that teachers and administrators at North Gwinnett High School became aware that Hill was sexually harassing Franklin and other female students.

Although school personnel investigated Hill's conduct, they took no action to end it; and they discouraged Franklin from pressing charges against Hill. The school's investigation ended in April 1988, when Hill resigned on the condition that all charges pending against him be dropped (112 S.Ct. 1031).

In August 1988, four months after North Gwinnett High School closed its investigation, Franklin filed a complaint with the Office of Civil Rights. OCR investigated the charges and concluded that the Gwinnett County School District had violated Franklin's rights. This included exposing her to both verbal and physical sexual harassment and then interfering with her right to press charges. The OCR investigation terminated because Hill had resigned and the school district had implemented a grievance procedure that brought it into compliance with Title IX.

Franklin then filed suit in the United States District Court of the Northern District of Georgia under Title IX, seeking damages for gender-based discrimination in connection with sexual harassment and abuse. The District Court dismissed the case on the ground that damages are not authorized under Title IX. Franklin appealed to the Court of Appeals for the Eleventh Circuit, which upheld the lower court's decision. Franklin petitioned the Supreme Court to review the lower court's decision. Certiorari was granted. The case was argued 11 December 1991, and decided 26 February 1992.

Relevant Issues

The defendants presented three reasons why the lower courts were correct in dismissing Franklin's complaint. First, they claimed that a monetary award would violate the separation of powers principle by unduly expanding the judicial branch of government into an area

rightly reserved for the legislative and executive branches. The Supreme Court rejected this argument, based on the difference between a cause of action and a remedy. The cause of action in this case had already been established by Congress under Title IX, and awarding appropriate relief would not increase judicial power. In fact, the award of damages historically has been within the province of the judicial system and is a crucial protection against unlimited legislative and executive power.

The second argument was that all appropriate remedies should not apply because Title IX was enacted in accordance with the congressional Spending Power Clause. This clause protects state entities from having to pay monetary awards from their treasuries for unintentional violations of federal statutes. Although Spending Clause statutes prohibit monetary damages for unintentional violations, the defendants argued that they should apply equally when the violation was intentional. The Supreme Court rejected this argument, noting that the Court had already ruled in a previous case (*Darrone*, 104 S.Ct. 1251) that the Spending Clause permits monetary damages for intentional violations. The Court also concluded that Congress did not authorize federal funds to support intentional behaviors that are, by congressional mandate, illegal.

The final argument was that the remedies allowed under Title IX should be limited to back pay and prospective relief. However, it was obvious to the Supreme Court that the remedies proposed by the defendants were altogether insufficient. Franklin was a student when the alleged harassment occurred; thus back pay was meaningless. Since Andrew Hill no longer taught at the school and Franklin was not a student in the Gwinnett system, the proposed relief provided no remedy.

In rejecting these arguments, the Supreme Court ruled that a damage remedy is available for an action brought to enforce Title IX. This ruling cleared the way for federal courts to use any available remedy to right a wrong where legal rights have been invaded and

federal statute provides the right to sue. With this ruling, the Supreme Court placed Title VII and Title IX on equal footing. The justices asserted that the rules that apply when a supervisor sexually harasses a subordinate also apply when a teacher sexually harasses and abuses a student. Title IX alerts schools not to discriminate on the basis of sex, just as Title VII alerts employers; thus the same remedies should apply in cases of violation.

Implications for Schools

The *Franklin* decision has provided victims of sexual harassment and the many educators who wish to prevent harassment with another avenue of redress. Schools and colleges no longer can afford to ignore reports of sexual harassment on campus or rest content merely to stop the harassment. They now can be ordered to pay victims compensatory damages.

According to Christine Franklin's attorney, Michael Weinstock, the Supreme Court's decision should indicate to every school that it must establish procedures to hear complaints in confidence and must act on complaints promptly, effectively, and in a manner that protects and supports the victim. Policies and procedures should address all types of harassment, whether faculty-student, faculty-faculty, or student-student.

All faculty and students who suffer intentional sex discrimination now may sue for damages under Title IX; and school employees, including student workers, may file a claim under Title VII. In an incident reported in the *New York Times* (11 March 1992, p. B-8), a female student received a $15,000 settlement for mental anguish because school officials did not prohibit her male classmates from taunting her and writing vulgarities about her on a bathroom wall.

Considering the financial risks alone, schools and colleges might be expected to move quickly to set in place appropriate policies. However, according to a study published in *Initiatives* in 1994, to date few states have developed and implemented policy changes concern-

ing sexual harassment. Surveys sent to the state boards of education in 50 states and the District of Columbia 15 months after the *Franklin* decision found that only 10% of the reporting states had instituted a change of policy at the state level, while only 22% had changed policies at the local level because of *Franklin* (Wishnietsky and Felder 1994).

Without policies and procedures in place, sex equity specialists predict that many schools will pay monetary damages as future victims of sexual harassment prevail in the courts.

Establishing Written Policies

Educators have a legal and moral responsibility to provide environments that are safe for students and staff. Developing and implementing policies that deter sexual harassment help to provide such security. Ideally, policies are initiated at the state level.

Illinois initiated a statewide sexual harassment policy before the threat of monetary damages became an issue. On 3 October 1986, Illinois Administrative Code, Title 23, Part 200, became law. Section 200.40 states that all policies and practices of the Illinois education system shall comply with Title IX. In addition, each school system is required to have a written policy forbidding discrimination based on sex in all educational programs and activities.

In California the state legislature responded to the Supreme Court ruling in *Franklin* v. *Gwinnett Public Schools* by drafting and signing into law a bill prohibiting sexual harassment. On 24 September 1992, only seven months after the *Franklin* decision, the governor of California signed into law Assembly Bill No. 2900, which reaffirms an existing law that prohibits sexual harassment and directs each education institution, school district, county office of education, and community college to establish a policy on sexual harassment.

The policy requirements in Illinois and California can serve as models for other states and school entities. Section 200 of the Illinois Administrative Code and Section 212.6 of the California Education Code both address sexual harassment policy and practice at each state's education institutions.

The Illinois code is applicable to all public school districts and mandates that all policies and practices of education systems comply with Title IX of the Education Amendments of 1972. In addition, every education system in Illinois is required to have a written policy on sex equity. This policy must state that schools do not discriminate on the basis of sex in programs, activities, services, or benefits. Students, regardless of their sex, are guaranteed equal access to educational and extracurricular programs and activities.

To enforce the sex equity policy, each school system is required to have a written grievance procedure by which any person in the system may present a complaint alleging discrimination. The grievance procedure includes: 1) the method for initiating and processing a grievance, 2) the parties involved in each step of the grievance procedure, 3) a specific timetable for completing each step and delivering a written decision, and 4) a final appeal process. Each school system is responsible for informing all employees, students, and parents of the sex equity policy and the grievance procedure through publications such as policy manuals, newsletters, and student handbooks. In addition, each school system is required to evaluate their sex equity policy at least every four years.

California Education Code section 212.6 also addresses sex equity issues. According to California law, discrimination of any kind because of sex is prohibited at the state's education institutions. The purpose of Section 212.6 is to define sexual harassment as a form of sex discrimination and therefore prohibited in California schools. By legislative action, this section mandates that each education institution in the state have a written policy on sexual harassment as part of the school's regular policy statement. The institution's written policy is to be in every school publication that details the school's rules and regulations.

Like Illinois, California requires that the education institution's sexual harassment policy include information about where to obtain specific rules and how to make complaints and seek remedies for

grievances. The policy must be displayed in a prominent location on the campus or school site. Suggested locations include the main administrative building or other areas where notices regarding the school's regulations, procedures, and standards of conduct are posted. In addition to posting the policy regarding sexual harassment, copies must be provided to all students as part of any orientation process. The education institution also must distribute the sexual harassment policy to all faculty members, administrative staff, and support staff at the beginning of each term or when a new employee is hired.

Human Resources Management Model

Commerce Clearing House publishes *Human Resources Management*, which includes guidelines for establishing a sexual harassment policy and conducting a sexual harassment investigation. The objectives of these policies include preventing sexual harassment and avoiding sexual harassment charges or lawsuits under Title VII. Since Title IX of the Education Amendments is based on Title VII of the Civil Rights Act, the guidelines presented in *Human Resources Management* can be easily modified for education institutions.

The *Human Resources Management* model recommends that any sexual harassment policy include: 1) a definition of sexual harassment, 2) a complaint procedure, 3) a time frame for investigation, 4) a statement of penalties, and 5) an assurance of confidentiality and protection against retaliation. The definition of sexual harassment included in Title VII of the 1980 Equal Employment Opportunity Commission guidelines can be adapted for the education setting by including the academic environment along with the work environment. Any general definition also should describe specific unacceptable behaviors.

The complaint procedure should designate one or more individuals authorized to respond to written complaints. These individuals should not be in the direct line of supervision. It is important that the complaint procedure ensure that the victim will not have to complain to

the alleged harasser. In a school setting, the designated individual could be an affirmative action officer, a guidance counselor, or a committee of several educators.

The complaint procedure also should include a timetable for the investigation and specify the penalties that may be levied for policy violations. Such penalties can range from a warning to dismissal. In addition to penalties from the school unit, there may be civil penalties for violating sexual harassment laws.

Sexual harassment often is not reported because victims fear retaliation or social stigma. The *Human Resources Management* model contains a confidentiality provision that stipulates that the identity of all involved individuals will be protected, including the victim, the alleged harasser, and all witnesses. Protection against retaliation for all people involved also is assured.

Sample Sexual Harassment Policy Statement

Many education institutions are developing sexual harassment policy based on the *Human Resources Management* model and the education codes of Illinois and California. Following is a sample policy statement designed to aid educators in developing appropriate guidelines. This statement on sexual harassment is based on the *Human Resources Model*. It is similar to statements adopted by many schools and school systems, but each individual institution should modify the policy statement to match its specific needs.

Statement of Policy: Sexual harassment by any member of the education community is a violation of both law and school policy. Accordingly, no academic or personnel decisions, such as awarding of grades and jobs, shall be made on the basis of the granting or the denial of sexual favors.

Definition: For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to

such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement; submission to or rejection of such conduct by an individual is used as the basis for employment decisions or academic decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment.

As defined above, sexual harassment is a specific form of discrimination in which power inherent in a faculty member's or supervisor's relationship to his or her students or subordinates is unfairly exploited. While sexual harassment most often occurs in a situation of power differential between persons involved, this policy recognizes that sexual harassment may take place between persons of the same status, that is, student-student, faculty-faculty, staff-staff.

Purpose of Policy: The sexual harassment policy is designed to encourage students, faculty, and staff to express freely, responsibly, and in an orderly way their opinions and feelings regarding any problem or complaint of sexual harassment. Any act by a school employee or an agent of the school of reprisal, interference, restraint, penalty, discrimination, coercion, or harassment — overtly or covertly — against a student or employee for using the policy will necessitate appropriate and prompt disciplinary action. This policy shall not be used frivolously, falsely, or maliciously to convey charges against fellow students, faculty members, or employees.

Consensual Relationships: While consenting romantic and sexual relationships between faculty and student, or between supervisor and employee, are not expressly forbidden, such relationships are deemed inappropriate. Where a power differential exists, if a charge of sexual harassment is brought, the defense of mutual consent will be difficult to prove.

Handling Complaints: The complaint officer shall be responsible for receiving and processing any and all complaints of alleged sexual harassment. The initial investigation may lead to one of several steps.

First, an attempt will be made to resolve the question informally through confidential mediation, counseling, or informal discussion. If the complaint cannot be resolved informally, the complainant may file a formal written complaint. The complaint shall set forth in detail the nature of the grievance, against whom the grievance is directed, and the names of any witnesses.

The complaint officer shall contact and forward the complaint to the respondent and request the respondent to reply to the written complaint within 10 days of receipt of the complaint. The filing of such responses shall be mandatory; and the person responding shall be required to indicate denial in whole or in part, or agreement with the assertions in whole or in part. Failure to respond shall be deemed a breach of academic responsibility requiring the complaint officer to notify the appropriate institutional authority. Upon receipt of the response, the complaint officer may further investigate the complaint and may schedule a meeting of the parties. If there is no settlement between the parties, the complaint shall be forwarded to a grievance hearing unless the investigation reveals that the complaint has no merit.

Grievance Hearings: The complaint committee shall conduct grievance hearings for the purpose of advising and fact-finding. A calendar of the hearings in a sexual harassment grievance proceeding shall be fixed by the chair of the complaint committee as promptly as possible. The chair will notify the parties involved of the time and place of the hearing. Any hearing shall be conducted in accordance with basic and traditional principles of fairness and in accordance with procedures that guarantee due process to the complainant and respondent.

The chair of the complaint committee shall preside over the hearing. Both parties may have legal representation. If a complainant or a respondent chooses to hire legal representation, that party shall assume all costs. The charges and the evidence shall be presented by the complainant or complainant's legal representative. Either party

may request the privilege of presenting witnesses, subject to the right of cross-examination by the opposing side. The complaint committee chair must be notified in writing five days prior to the hearing date of the names and addresses of all witnesses who will testify. It is each party's responsibility to notify the witnesses of the time, date, and place of the hearing. In addition to the parties named in the complaint, any member of the complaint committee may address questions to any party to the proceedings or to any witness called by the parties or the committee. Inquiry into the complainant's sexual habits or relationships shall be deemed inappropriate.

The hearing shall be confidential and private, unless otherwise agreed upon by both parties. An accurate record of the proceedings shall be made and the record shall be made available to all parties to the hearing. At the end of the hearing, the committee will make its recommendation in a closed executive session. The complaint committee shall make a report to the appropriate person or office and to all parties of the hearing within five working days. It may recommend to dismiss the complaint as being without merit or it may find that the respondent acted in violation of the sexual harassment policy. The committee shall describe the nature of the alleged violation, the evidence that supports its judgment, and the sanction, if any, that it recommends to the appropriate person or office. Final authority for implementing the recommendation shall be with the appropriate person or office, who may accept, reject, or modify the decision. The appropriate person or office shall notify all parties of the decision within 10 business days following receipt of the complaint committee report.

Appeals: All appeals shall follow the procedure outlined in the school code, the student handbook, and the State Personnel Act. [These procedures should be already in place to govern grievances other than ones of sexual harassment.] All parties are reminded that sexual harassment is a violation of law and that the decision of the complaint committee does not prevent any party from taking legal action in the courts. By implementing this sexual harassment policy, it is anticipated

that resolution will occur during the grievance procedure and the filing of sexual harassment lawsuits will be prevented.

In 1982 a detailed study of the legal implications of sexual contact between teachers and students was published in the *Journal of Law and Education*. The author, Patricia Winks, an attorney who had been a public school teacher and administrator, stated that there was abundant evidence that sexual harassment in academe was widespread. After studying the adverse consequences suffered by victims of sexual harassment in higher and secondary education, Winks alleged that students, teachers, and administrators have all participated in a conspiracy of silence regarding sexual harassment in the schools. Sadly, much of the research published in the years since 1982 supports Winks' allegation.

Instead of silence, educators must forcefully and collectively confront sexual harassment. More important than the legal requirement or a written policy is a faculty and staff that desire a school environment where students and personnel are not sexually harassed. Guidelines may provide the form for policy, but only faculty, staff, and administrators can provide the substance. In fact, a possible deterrent to those who are contemplating inappropriate behaviors is the knowledge that sexual harassment will not be tolerated.

Prevention Programs

Legal mandates and written policies primarily address how to manage situations after harassment has occurred. The *Human Resources Management* model asserts that training is a critical step in the prevention of sexual harassment. The model suggests periodic workshops to explain policy, to identify harassment, and to learn how to interact productively with the harasser.

Sexual harassment workshops attempt to influence behavior by using awareness training as a basis for change. Participants learn what constitutes sexual harassment, its harmful effects, and ways to combat harassment. They also examine and confront individual opinions about sexual harassment. After the training, many schools believe that workshop participants better understand the dynamics of sexual harassment, show more sensitivity toward victims of harassment, and have a lower tolerance for intimidating sexual behavior.

The initial segment of the sexual harassment workshop usually includes a statement by the head of the school or school system or other high-level administrator. The administrator sets the tone for the workshop by emphasizing that sexual harassment cannot be tolerated on campus and that all members of the school community are expected to play an active role in preventing harassment. The administrator also discusses how harassment undermines the mission of education. By involving an influential leader, participants are more likely to recognize that educators at all levels of leadership are united in the

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institution's war against sexual harassment. Although having this individual appear in person at the workshop is preferred, many schools use a taped introduction because of time constraints on the administrator.

Next, workshop facilitators present and discuss the school's definition of sexual harassment. This may include the explanations found in Title VII of the Civil Rights Act, Title IX of the Education Amendments, or the school's guidelines. After discussing the definition, participants examine different forms of sexually related conduct. This can be accomplished through role playing or by viewing tapes that depict incidents of sexual harassment.

A set of 12 tapes, developed at the University of Michigan, demonstrates the complexity and the questions that often surround incidents of harassment. The tapes illustrate basic forms of harassment, such as a male harassing a female, a heterosexual harassing a homosexual, a homosexual harassing a heterosexual, and a female harassing a male. These tapes, the "Tell Someone Training Program," are available from the Affirmative Action Office, University of Michigan, Ann Arbor, MI 48109; (313) 763-0235.

After viewing the tapes, participants discuss whether the incident depicted in each of the scenarios involved sexual harassment and what actions the victim might take. The discussion concerning the tapes or role playing often provides an occasion for discussing personal experiences of harassment at the individual's school. In this way, participants discover firsthand the personal and academic consequences of harassment.

Participants often believe that harassment happens elsewhere, not at their own institution. By viewing sexual harassment as a local problem, workshop members are able to discuss what they can do to help prevent harassment at their school. Participants analyze federal guidelines concerning sexual harassment and review the school's sexual harassment policy statement. The local solutions recommended in the school policy are examined to determine if they conform with federal law. After evaluating the local guidelines, the group suggests how

they could be improved. This activity cultivates a sense of shared responsibility for solving the problem.

Finally, each participant receives a reference manual that reviews the aspects of sexual harassment addressed in the workshop.

An Organizational Development Approach

Opposing sexual harassment requires more than establishing policies, instituting grievance procedures, or scheduling workshops. According to an organizational development perspective, intervention must affect the structure and value system of the education setting. Long-term behavioral changes will not occur in individuals unless similar changes occur in the school's social expectations. For example, participants in a sexual harassment workshop might form positive attitudes and behavioral changes; but if the school's culture does not reinforce the new values, the new behaviors soon will be extinguished.

In the fall 1989 edition of *CUPA Journal*, Thomann, Strickland, and Gibbons described how Saint Louis University instituted a sexual harassment policy designed to influence the school's culture. Although the *CUPA Journal* example was developed in a university setting, an organizational development approach can be generalized for all levels of education.

Cultural change at any school requires support from people at the highest levels of the organization. At Saint Louis University, the college president affirmed the institution's commitment to an environment free of sexual harassment. A group of key participants in the organization further strengthened this commitment. They not only provided verbal and written support, but also worked to develop a policy based on their shared value.

As discussion concerning sexual harassment increases, people form shared meanings and definitions, a common understanding of harassment's consequences, and how the individuals and the institution should respond. These new understandings are shared through the school's

mission statement, dialogue sessions, workshops, and other methods. As more people participate in the battle against sexual harassment, the orientation of the education community begins to change. Instead of an environment where harassment is ignored or even condoned, the social orientation becomes one where harassment is not tolerated.

Conclusion

Sexual harassment has been illegal since the adoption of Title VII of the Civil Rights Act of 1964 and Title IX of the 1972 Education Amendments. Court cases, such as *Alexander* v. *Yale*, *Ingraham* v. *Wright*, and *Franklin* v. *Gwinnett County Public Schools*, have further defined sexual harassment and have identified appropriate penalties. In spite of these actions, the number of reported sexual harassment cases continues to increase.

A goal of all educators should be to provide an educational environment where sexual harassment is not tolerated. This requires more than legal precedent. All states should require their education institutions to develop policies that will help to create an environment free from all forms of discrimination and conduct that is harassing, coercive, or disruptive. California's Assembly Bill No. 2900 (24 September 1992) and Title 23 of the Illinois Administrative Code, Part 200 (3 October 1986, amended 29 June 1989) provide frameworks for developing sexual harassment policy.

Educators have a legal and ethical responsibility to prevent sexual harassment in the educational environment. The ideals of democracy expressed by the academic community indicate an ethical responsibility to provide an environment free of harassment. Although there are no simple solutions, by collaboratively and aggressively confronting sexual harassment, educators can formulate and implement policies that will provide personal security for students and staff and will protect professional integrity.

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George H. Reavis (1883-1970) entered the education profession after graduating from Warrensburg Missouri State Teachers College in 1906 and the University of Missouri in 1911. He went on to earn an M.A. and a Ph.D. at Columbia University. Dr. Reavis served as assistant superintendent of schools in Maryland and dean of the College of Arts and Sciences and the School of Education at the University of Pittsburgh. In 1929 he was appointed director of instruction for the Ohio State Department of Education. But it was as assistant superintendent for curriculum and instruction in the Cincinnati public schools (1939-48) that he rose to national prominence.

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